

TERESA R. MARTIN
Claimant

PREMIER HEALTH SERVICES, INC.
Respondent

HAWKEYE SECURITY INSURANCE COMPANY
Insurance Carrier

ORDER

Claimant appeals from the May 24, 2001, Award of Administrative Law Judge Bryce D. Benedict. Claimant was denied benefits after the Administrative Law Judge found that claimant had failed to prove that she suffered accidental injury arising out of and in the course of her employment with respondent and, further, had failed to prove timely notice of accident. The Board held oral argument on January 15, 2002.

APPEARANCES

Claimant appeared by her attorney, Jeff K. Cooper of Topeka, Kansas. Respondent and its insurance carrier appeared by their attorney, Michael R. Kauphusman of Overland Park, Kansas.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopts the stipulations contained in the Award of the Administrative Law Judge.

ISSUES

- (1) Did claimant suffer accidental injury arising out of and in the course of her employment on the date or dates alleged?
- (2) Did claimant provide timely notice of accidental injury pursuant to K.S.A. 44-520 (Furse 1993)?

- (3) If timely notice was not provided, did claimant have just cause for having failed to provide timely notice?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary file contained herein, the Appeals Board finds the Award of the Administrative Law Judge should be affirmed.

The Award sets out findings of fact and conclusions of law in some detail, and it is not necessary to repeat those herein. The Appeals Board adopts the findings and conclusions of the Administrative Law Judge as if specifically set forth herein.

The November 22, 1999, emergency records from the Hanover Hospital identify the first attempt by claimant to obtain medical treatment for this alleged injury. The records note that claimant has had pain for approximately two weeks and also that claimant had not slept since the first full week of November. However, the records fail to mention any work-related connection to claimant's ongoing difficulties.

Additionally, claimant's supervisor, Steve Monhollon, contradicts claimant's allegations that she advised respondent of a work-related accident. Mr. Monhollon acknowledged that claimant called him sometime between November 13 and November 20, 1999, complaining that her leg was giving her problems and requesting time off. However, claimant failed to mention any work-related connection to her complaints.

In workers' compensation litigation, it is claimant's burden to prove her entitlement to benefits by a preponderance of the credible evidence. See K.S.A. 1999 Supp. 44-501 and K.S.A. 1999 Supp. 44-508(g). Claimant alleges accidental injury on November 13, 1999, and through a series of accidents from November 13 through November 20, 1999. Claimant did not work between November 13 and November 20, and, on November 20, only worked a portion of her shift. Again, at no time, did claimant advise Mr. Monhollon that she had suffered any type of work-related accident.

Additionally, the inconsistent histories provided by claimant to the health care providers convinces the Appeals Board that claimant has not established that she suffered accidental injury arising out of and in the course of her employment with respondent. Therefore, for the above reasons, benefits should be denied.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bryce D. Benedict dated May 24, 2001, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of January 2002.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Jeff K. Cooper, Attorney for Claimant
Michael R. Kauphusman, Attorney for Respondent
Bryce D. Benedict, Administrative Law Judge
Philip S. Harness, Director